

CHAPTER 34

ADMINISTRATIVE AND GENERAL PROVISIONS

GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

| | |
|-----------|---|
| Rule 34.1 | Iowa Supreme Court Grievance Commission |
| Rule 34.2 | Grievance commission; vice chair duties |
| Rule 34.3 | Substitutions and vacancies on the grievance commission |
| Rule 34.4 | Confidentiality of grievance commission |
| Rule 34.5 | Retention of grievance commission records |

ATTORNEY DISCIPLINARY BOARD

| | |
|-----------|---|
| Rule 34.6 | Iowa Supreme Court Attorney Disciplinary Board |
| Rule 34.7 | Disciplinary board advisory opinions prohibited |
| Rule 34.8 | Retention of disciplinary board records |

GENERAL DISCIPLINARY RULES OF GRIEVANCE COMMISSION AND DISCIPLINARY BOARD

| | |
|------------|--|
| Rule 34.9 | Effective dates |
| Rule 34.10 | Jurisdiction |
| Rule 34.11 | Reserved |
| Rule 34.12 | Immunity |
| Rule 34.13 | Reports |
| Rule 34.14 | Interim suspension for threat of harm |
| Rule 34.15 | Suspension on conviction of a crime |
| Rule 34.16 | Suspension or disbarment on consent |
| Rule 34.17 | Disability suspension |
| Rule 34.18 | Death, suspension, or disbarment of practicing attorney |
| Rule 34.19 | Reciprocal discipline |
| Rule 34.20 | Suspension of attorney's license for failure to comply with a child support order |
| Rule 34.21 | Suspension of attorney's license for failure to comply with an obligation owed to or collected by the College Student Aid Commission |
| Rule 34.22 | Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Centralized Collection Unit of the Department of Revenue |
| Rule 34.23 | Suspension generally |
| Rule 34.24 | Notification of clients and counsel |

REINSTATEMENT

| | |
|------------|--|
| Rule 34.25 | Procedure on application for reinstatement |
|------------|--|

CHAPTER 34

ADMINISTRATIVE AND GENERAL PROVISIONS

GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

Rule 34.1 Iowa Supreme Court Grievance Commission.

34.1(1) There is hereby created the Iowa Supreme Court Grievance Commission (grievance commission) consisting of 25 attorneys from judicial election district 5C, 15 attorneys from judicial election district 5A, 10 attorneys from judicial election district 6, and 5 attorneys from each other judicial election district, to be appointed by the supreme court. The supreme court will designate one attorney as grievance commission chair. The supreme court will accept nominations for appointment to the grievance commission from any association of attorneys that maintains an office within the State of Iowa or any attorney licensed in Iowa. The grievance commission also consists of no fewer than 5 or more than 35 laypersons appointed by the court. Members must serve no more than two three-year terms, and no member who has served two full terms is eligible for reappointment. A member serving as a primary or alternate member of a division of the grievance commission at the time the member's regular term ends must, nonetheless, continue to serve on that division until the division has concluded its duties with respect to the complaint for which the division was appointed.

34.1(2) Grievance commission members are referred to as commissioners. The grievance commission or a duly appointed division of the grievance commission must hold hearings and receive evidence concerning alleged violations, wherever such violations occur, of the Iowa Rules of Professional Conduct, the laws of the United States, and the laws of the State of Iowa or any other state or territory within their respective jurisdictions, by attorneys within the jurisdiction of the grievance commission as described in rule 34.10. The grievance commission has such other powers and duties as these rules provide.

34.1(3) A grievance commission member must not represent, in any stage of the investigative or disciplinary proceedings, any attorney against whom an ethical complaint is filed. A grievance commission member may represent an attorney in a malpractice, criminal, or other matter; however, the member must decline representation of the attorney in any stage of the investigative or disciplinary proceedings and must not participate in any hearing or other proceeding before the grievance commission. These prohibitions extend to attorneys associated in a firm with a grievance commission member with respect to those cases in which the member participates or has participated as a member of a division or as an alternate.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.1 formerly appeared at Iowa Court Rule 35.1. It is amended to delete the requirement for annual designation of the grievance commission chair. The requirement for administrative committee review of the annual grievance commission budget also is removed. Responsibility for formulation and submission of the annual budget for the grievance commission is addressed in chapter 49 of the Iowa Court Rules. Jurisdictional requirements are deleted from the rule and replaced by a reference to the new jurisdiction provision in rule 34.10. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.2 Grievance commission; vice chair duties. The director of the office of professional regulation must designate a clerk and an assistant clerk for the grievance commission. In the chair's absence or inability to act, the vice chair must perform all duties of the chair.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.2 formerly appeared as Iowa Court Rule 36.1. It is amended to remove the specific designation of the assistant director for boards and commissions as the grievance commission clerk to provide more flexibility in assignment of duties within the office of professional regulation. The provision for short-form references to the grievance commission is moved to rule 34.1(1). [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.3 Substitutions and vacancies on the grievance commission.

34.3(1) In the absence of the grievance commission chair and vice chair or inability of the chair and vice chair to perform any of the duties provided in this chapter, the grievance commission may designate some other member as acting chair to perform the duties.

34.3(2) In the absence or inability of a division president to perform any of the duties provided in this chapter, the division may designate some other member as acting president to perform the duties. If a vacancy occurs in any division from any cause, the chair, vice chair, or acting chair of the grievance commission must fill the vacancy.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.3 formerly appeared as Iowa Court Rule 36.16. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.4 Confidentiality of grievance commission.

34.4(1) All records, papers, proceedings, meetings, and hearings of the grievance commission will be confidential unless the grievance commission recommends that the supreme court reprimand the respondent or suspend or revoke the respondent's license.

34.4(2) If the grievance commission recommends that the supreme court reprimand the respondent or suspend or revoke the respondent's license, the grievance commission's report of reprimand or recommendation for license suspension or revocation is a public document upon its filing with the supreme court clerk. In addition, if the grievance commission recommends the supreme court reprimand the respondent or suspend or revoke the respondent's license, the complaint filed with the grievance commission by the Iowa Supreme Court Attorney Disciplinary Board is a public document.

34.4(3) Any other records and papers of the grievance commission concerning any complaint must remain privileged and confidential and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the respondent, the attorneys, or the attorneys' agents involved in the proceeding before the grievance commission. The respondent, the attorneys, or the attorneys' agents involved in the proceeding before the grievance commission must not disclose any records and papers of the grievance commission concerning any complaint to any third parties unless disclosure is required in the prosecution or defense of disciplinary charges. The confidential records and papers of the grievance commission concerning any complaint are not admissible in evidence in a judicial or administrative proceeding other than the formal grievance commission hearing under rule 36.17.

34.4(4) Every witness in every proceeding under this chapter must swear or affirm to tell the truth and not to disclose the existence of the proceedings or the identity of the respondent until the proceeding is no longer confidential.

34.4(5) All communications, papers, and materials concerning any complaint that may come into the hands of a grievance commission member must remain confidential, and the member must keep them in a safe and secure place.

34.4(6) The grievance commission clerk, the chair, or a grievance commission member the chair designates may issue one or more clarifying announcements when the subject matter of a complaint is of broad public interest and failure to supply information on the status and nature of the formal proceedings could threaten public confidence in the administration of justice. No other grievance commission member may make any public statement concerning any matter before the grievance commission without prior approval of the grievance commission.

34.4(7) Nothing in this chapter prohibits the grievance commission from releasing any information regarding possible criminal violations to appropriate law enforcement authorities, wherever located, or to attorney disciplinary and bar admission authorities in other jurisdictions or from releasing any information regarding possible violations of the Iowa Code of Judicial Conduct to the Commission on Judicial Qualifications.

34.4(8) For purposes of this rule, a grievance commission recommendation that a respondent not licensed to practice law in Iowa be publicly censured or reprimanded or be ordered, enjoined, or otherwise directed not to practice law in Iowa for any period of time is deemed the equivalent of a recommendation to reprimand, suspend, or revoke.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.4 formerly appeared as Iowa Court Rule 36.18. Rule 34.4(8) is added to clarify application of the public disclosure rule to commission recommendations in cases involving respondents not licensed in Iowa. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.5 Retention of grievance commission records.

34.5(1) The grievance commission must permanently retain the complaint, answer, amendments to the complaint and answer, and the grievance commission recommendation for discipline or other disposition for each grievance case. Grievance commission files and records relating to a grievance complaint otherwise may be destroyed after the death of the respondent. For purposes of this rule, destruction of paper records after the records have been transferred to computer storage is permitted immediately after the transfer.

34.5(2) Notwithstanding any required destruction of documents, the grievance commission will permanently maintain a summary of all grievance matters containing the name of the respondent attorney, the disposition, and the respective dates the matter was opened and closed.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.5 formerly appeared as Iowa Court Rule 36.19. [Court Order January 26, 2016, effective April 1, 2016]

ATTORNEY DISCIPLINARY BOARD

Rule 34.6 Iowa Supreme Court Attorney Disciplinary Board.

34.6(1) There is hereby created the Iowa Supreme Court Attorney Disciplinary Board (disciplinary board). The disciplinary board consists of nine attorney members and three laypersons appointed by the supreme court. The supreme court will designate one of the attorneys as chair. The supreme court will accept nominations for appointment to the disciplinary board from any association of attorneys that maintains an office within the State of Iowa or any attorney licensed in Iowa. Members must serve no more than two three-year terms, and no member who has served two full terms is eligible for reappointment. Disciplinary board members are appointed commissioners of the supreme court to initiate or receive and process complaints against any attorney within the jurisdiction of the disciplinary board as described in rule 34.10. Upon completion of any investigation, the board must either dismiss the complaint, admonish or reprimand the attorney, or file and prosecute the complaint before the grievance commission or any grievance commission division. The disciplinary board may additionally refer complaints involving attorneys who are not authorized to practice law in Iowa to the commission on the unauthorized practice of law.

34.6(2) A disciplinary board member must not represent, in any stage of the investigative or disciplinary proceedings, any attorney against whom an ethical complaint is filed. To avoid even the appearance of impropriety, a disciplinary board member should not represent any attorney in any malpractice, criminal, or other matter when it appears that the filing of an ethical complaint against that attorney is reasonably likely. These prohibitions extend to attorneys associated in a firm with a disciplinary board member.

34.6(3) The assistant director for attorney discipline of the office of professional regulation is the principal executive officer of the board. A reference in this chapter to the “assistant director” refers to the assistant director for attorney discipline of the office of professional regulation. The assistant director is responsible to the disciplinary board, to the director of the office of professional regulation, and to the supreme court for proper administration of these rules. Subject to the approval of the supreme court, the disciplinary board may employ such other persons as it deems necessary for the proper administration of this chapter. The assistant director and other disciplinary board employees will receive such compensation and expenses as the supreme court may fix upon recommendation of the director of the office of professional regulation.

34.6(4) The director of the office of professional regulation must, at least 60 days prior to the start of each fiscal year, submit to the supreme court for its consideration and approval a budget covering the operations of the disciplinary board for the upcoming fiscal year. This budget must include proposed expenditures for staff, support staff, office space, equipment, supplies, and other items necessary to administer the responsibilities of the disciplinary board as set out in this chapter. Supreme court approval of the budget authorizes payment as provided in the budget. A separate bank account designated as the ethics operating account of the disciplinary fund must be maintained for payment of authorized expenditures as provided in the approved budget. Moneys derived from the annual disciplinary fee set out in Iowa Court Rule 39.5 must be deposited in the ethics operating account to the extent the supreme court authorizes each year for payment of the disciplinary board’s authorized expenditures.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.6 formerly appeared as Iowa Court Rule 35.2. It is amended to delete the requirement for annual designation of the disciplinary board chair. The requirement for an administrative committee for review and submission of the annual disciplinary board budget also is removed. Responsibility for formulation and submission of the annual budget for the disciplinary board is placed with the director of the office of professional regulation, which is consistent with the budget provisions for other boards and commissions of the office of professional regulation in chapter 49 of the Iowa Court Rules. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.7 Disciplinary board advisory opinions prohibited. The disciplinary board must not render advisory opinions, either orally or in writing.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.7 is adapted from rule 4C of the ABA Model Rules for Lawyer Disciplinary Enforcement. The supreme court adopted a similar prohibition for the disciplinary board in 2005. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.8 Retention of disciplinary board records.

34.8(1) The disciplinary board must maintain files and records relating to allegations of misconduct by an attorney until destruction is authorized pursuant to the following schedule:

- a. Files and records relating to complaints the assistant director dismisses pursuant to rule 35.4(1) may be destroyed one year from the date of the last action on the file.
- b. Files and records relating to all other complaints the disciplinary board dismisses may be destroyed five years from the date of the last action on the file.
- c. All other files and records relating to allegations of respondent misconduct may be destroyed after death of the respondent.
- d. For purposes of rule 34.8(1), destruction of paper files is permitted immediately after the files have been transferred to computer storage.

34.8(2) Notwithstanding any required destruction of documents, the disciplinary board must permanently maintain a summary of all complaint matters containing the name of the complainant and the respondent, the disposition of the complaint, and the respective dates the complaint was opened and closed.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.8 formerly appeared as Iowa Court Rule 35.29. [Court Order January 26, 2016, effective April 1, 2016]

GENERAL DISCIPLINARY RULES OF GRIEVANCE COMMISSION AND DISCIPLINARY BOARD

Rule 34.9 Effective dates. The rules in chapters 34, 35, and 36 of the Iowa Court Rules apply prospectively and retrospectively to all alleged violations, complaints, hearings, and dispositions on which a hearing has not actually commenced before the grievance commission prior to April 1, 2016.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.9 formerly appeared as Iowa Court Rule 35.26. It is amended to make clear its application to all three chapters. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.10 Jurisdiction.

34.10(1) Attorneys admitted to practice. Any attorney admitted to practice law in the State of Iowa, including any formerly admitted attorney with respect to acts committed prior to resignation, suspension, disbarment, or transfer to inactive status or with respect to subsequent acts that amount to the practice of law or constitute a violation of the rules of this chapter or of the Iowa Rules of Professional Conduct or of any rules or code the supreme court subsequently adopts in lieu thereof, any attorney an Iowa court specially admits for a particular proceeding, and any attorney not admitted in Iowa who practices law or renders or offers to render any legal services in Iowa is subject to the disciplinary jurisdiction of the Iowa Supreme Court, the disciplinary board, and the grievance commission.

34.10(2) Former judges. A former judge who has resumed the status of an attorney is subject to the jurisdiction of the disciplinary board and the grievance commission not only for conduct as an attorney but also for misconduct that occurred while the attorney was a judge and that would have been grounds for discipline under the rules of professional conduct for attorneys, provided that the misconduct was not the subject of a judicial disciplinary proceeding as to which the Iowa Supreme Court has reached a final determination.

34.10(3) Incumbent judges. Incumbent judges are not subject to the jurisdiction of the disciplinary board or the grievance commission. However, if an incumbent judge is to be removed from office in the course of a judicial discipline or disability proceeding, the supreme court will first provide the disciplinary board and the respondent an opportunity to submit a recommendation regarding whether attorney discipline should be imposed, and if so, the extent of the discipline.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.10 is adapted from rule 6 of the ABA Model Rules for Lawyer Disciplinary Enforcement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.11 Reserved.

Rule 34.12 Immunity.

34.12(1) Complaints submitted to the grievance commission or the disciplinary board and testimony regarding the complaints are privileged, and no lawsuit may be based on the complaints or testimony.

34.12(2) Claims against members of the grievance commission, the disciplinary board, the director, assistant directors, or the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

34.12(3) On application from the disciplinary board or the grievance commission and notice to the appropriate prosecuting authority, the supreme court may grant immunity from criminal prosecution to a witness in a disciplinary or disability proceeding.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rules 34.12(1) and 34.12(2) formerly appeared at Iowa Court Rule 35.24. Rule 34.12(3) is adapted from rule 12B of the ABA Model Rules for Lawyer Disciplinary Enforcement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.13 Reports. The chair of the grievance commission and the chair of the disciplinary board must, on or before February 1 of each year, submit to the supreme court a consolidated report of the number of complaints received and processed during the prior calendar year, a synopsis of each complaint, and the disposition of the complaint. The name of the attorney charged and the name of the complainant must be omitted.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.13 formerly appeared as Iowa Court Rule 35.25. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.14 Interim suspension for threat of harm.

34.14(1) Upon receipt of evidence demonstrating probable cause that an attorney subject to the disciplinary jurisdiction of the supreme court has committed a violation of the Iowa Rules of Professional Conduct that poses a substantial threat of serious harm to the public, the disciplinary board must do the following:

a. Transmit the evidence to the supreme court with a verified petition for interim suspension pending formal disciplinary proceedings. The petition must state with particularity the disciplinary rules the attorney is alleged to have violated and the exact nature of the threat of serious harm to the public.

b. Promptly notify the attorney by any reasonable means that a petition has been filed and provide service of the petition.

34.14(2) Upon receipt of the petition and evidence, the supreme court will determine whether the disciplinary board has established by a convincing preponderance of the evidence that a disciplinary violation posing a substantial threat of serious harm to the public exists. If a disciplinary violation is established, the supreme court may enter an order immediately suspending the attorney pending final disposition of a disciplinary proceeding based on the conduct, or the court may order such other action as it deems appropriate. The order may provide that any further proceedings based on the attorney's conduct be expedited. If the supreme court enters a suspension order, the court may direct the chief judge of the judicial district in which the attorney practiced to appoint a trustee under rule 34.18.

34.14(3) An attorney suspended pursuant to this rule may file a petition to dissolve or modify the interim suspension order. The attorney must serve the petition on the disciplinary board's counsel and the chief judge of the judicial district in which the attorney practiced. The supreme court will promptly schedule the matter for hearing before one or more justices. The hearing must be set for a date no sooner than seven days after the petition is filed unless both parties and the court agree to an earlier date. At the hearing, the attorney has the burden of demonstrating that the suspension order should be dissolved or modified.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.14 formerly appeared as Iowa Court Rule 35.4. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.15 Suspension on conviction of a crime.

34.15(1) Upon the supreme court's receipt of satisfactory evidence that an attorney has pled guilty or nolo contendere to, or has been convicted of, a crime that would be grounds for license suspension or revocation, the court may temporarily suspend the attorney from the practice of law regardless of the pendency of an appeal. Not less than 20 days prior to the effective date of the suspension, the attorney must be notified in writing, directed by restricted certified mail to the last address as shown by the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and at a designated place to show cause why such suspension should not take place. Any hearing will be informal and the strict rules of evidence will not apply. The decision rendered may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time.

34.15(2) Any attorney suspended pursuant to this rule must refrain, during the suspension, from all facets of ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements,

contracts, wills, and tax returns; acting as a fiduciary; and when possible, remove all advertising of the attorney's services or holding out to the public that he or she is a licensed attorney. The suspended attorney may, however, act as a fiduciary for an estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

34.15(3) For good cause shown, the supreme court may set aside an order temporarily suspending an attorney from the practice of law as provided above upon the attorney's application and a hearing in accordance with rule 34.25, but reinstatement does not terminate a pending disciplinary proceeding or bar later proceedings against the attorney.

34.15(4) An attorney temporarily suspended under the provisions of this rule must be promptly reinstated upon the filing of sufficient evidence disclosing that the underlying conviction of a crime has been finally reversed or set aside, but such reinstatement does not terminate a pending disciplinary proceeding or bar later proceedings against the attorney.

34.15(5) The clerk of any court in this state in which an attorney has pled guilty or nolo contendere to or been convicted of a crime as set forth above must, within 10 days, transmit a certified record of the proceedings to the supreme court clerk.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.15 formerly appeared as Iowa Court Rule 35.15. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.16 Suspension or disbarment on consent.

34.16(1) An attorney subject to investigation or to a pending proceeding involving allegations of misconduct subject to disciplinary action may acquiesce to suspension or disbarment, but only by delivering to the grievance commission an affidavit stating that the attorney consents to suspension of not more than a specific duration or to disbarment and indicating the following:

a. The consent is freely and voluntarily given without any coercion or duress and with full recognition of all implications of the consent.

b. The attorney is aware of a pending investigation or proceeding involving allegations that there exist grounds for discipline, the nature of which will be specifically set forth.

c. The attorney acknowledges the material facts of the alleged misconduct are true.

d. In the event proceedings were instituted upon the matters under investigation, or if existing proceedings were pursued, the attorney could not successfully defend against the proceedings.

e. The facts admitted in the affidavit would likely result in the suspension or revocation of the attorney's license to practice law.

f. Any matters in mitigation or aggravation of the alleged misconduct.

g. Consent to any alternative or additional sanctions as provided in rule 36.19.

34.16(2) The disciplinary board must file a response to the affidavit, indicating whether the board believes the misconduct admitted in the affidavit would probably result in suspension or revocation of the attorney's license to practice law and citing any legal authorities supporting its conclusion.

34.16(3) Upon receipt of the affidavit and response, the grievance commission must file the affidavit and response with the supreme court clerk. The supreme court may enter an order suspending the attorney's license to practice law for a period no greater than the stipulated duration or disbarring the attorney on consent, unless the court determines the misconduct admitted in the affidavit is insufficient to support the discipline to which the attorney has consented. The supreme court may also order any of the alternative or additional sanctions to which the respondent has consented. If the supreme court determines the affidavit does not set forth facts that support imposition of the discipline to which the attorney has consented, it may either enter an order allowing the parties to supplement the affidavit or an order declining to accept the affidavit. An order declining to accept the affidavit does not bar further disciplinary proceedings against the attorney, and does not preclude the supreme court from imposing any sanction the attorney's conduct warrants upon review of a grievance commission determination.

34.16(4) Any order suspending or disbarring an attorney on consent is a matter of public record. If the supreme court enters an order of suspension or disbarment, the affidavit and response will be publicly disclosed.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.16 formerly appeared as Iowa Court Rule 35.16. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.17 Disability suspension.

34.17(1) In the event an attorney is at any time in any jurisdiction duly adjudicated a mentally incapacitated person, or a person with a substance-related disorder, or is committed to an institution or

hospital for treatment thereof, the clerk of any court in Iowa in which the adjudication or commitment is entered must, within 10 days, certify the adjudication or commitment to the supreme court clerk.

34.17(2) Upon the filing of an adjudication or commitment certificate or a like certificate from another jurisdiction, upon a supreme court determination pursuant to a sworn application on behalf of a local bar association, or upon a disciplinary board determination that an attorney is not discharging professional responsibilities due to disability, incapacity, abandonment of practice, or disappearance, the supreme court may enter an order suspending the attorney's license to practice law in this state until further order of the court. Not less than 20 days prior to the effective date of the suspension, the attorney or the attorney's guardian, and the director of the institution or hospital to which the attorney has been committed, if any, must be notified in writing, directed by restricted certified mail to the last address as shown in the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and place and show cause why such suspension should not take place. Upon a showing of exigent circumstances, emergency, or other compelling cause, the supreme court may reduce or waive the 20-day period and the effective date of action set forth above. Any hearing will be informal and the strict rules of evidence will not apply. The decision rendered may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time. A copy of such suspension order must be given to the suspended attorney or to the attorney's guardian and to the director of the institution or hospital to which the suspended attorney has been committed, if any, by restricted mail or personal service as the supreme court may direct.

34.17(3) Upon the voluntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.9112, or upon the involuntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.2106(3)(a), the supreme court may enter an order suspending the retired judicial officer's license to practice law in this state in the event the underlying disability prevents the discharge of an attorney's professional responsibilities. The suspension is effective until further order of the supreme court. A copy of the suspension order must be given to the suspended attorney or to the attorney's guardian and to the director of the institution or hospital to which the suspended attorney is committed, if any, by restricted mail or personal service as the supreme court may direct.

34.17(4) Any attorney suspended pursuant to rule 34.17 must refrain, during the suspension, from all facets of ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; acting as a fiduciary; and when possible, remove all advertising of the attorney's services or holding out to the public that he or she is a licensed attorney. The suspended attorney may, however, act as a fiduciary for an estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

34.17(5) No attorney suspended due to disability under rule 34.17 may engage in the practice of law in this state until reinstated by supreme court order.

34.17(6)

a. Upon being notified of the suspension of an attorney, the chief judge in the judicial district in which the attorney practiced may appoint an attorney or attorneys to serve as trustee to inventory the attorney's files, sequester client funds, and take any other appropriate action to protect the interests of the attorney's clients and other affected persons. Any trustee appointment is subject to supreme court confirmation. The appointed attorney serves as a special member of the board and as a commissioner of the supreme court for the purposes of the appointment.

b. While acting as trustee, the trustee must not serve as an attorney for the clients of the disabled attorney or other affected persons. The trustee also must not examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. Should any such information be acquired inadvertently, the trustee must, as to such matters, protect the privacy interests of the disabled attorney's clients by prompt recusal or refusal of employment.

c. The trustee may seek reasonable fees and reimbursement of costs of the trust from the suspended attorney. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, must determine the merits of the claim and the amount of any payment from the fund.

d. When the suspended attorney is reinstated to practice law in this state, all pending representation of clients is completed, or the purposes of the trust are accomplished, the trustee may apply to the appointing chief judge for an order terminating the trust.

e. Trustee fees and expenses paid by the Client Security Commission must be assessed to the disabled attorney by the Client Security Commission and are due upon assessment. Trustee fees and expenses assessed under this rule must be paid as a condition of reinstatement and may be collected by the Client Security Commission as part of the annual statement and assessment required by rule 39.8.

34.17(7) Any suspended attorney is entitled to apply for reinstatement to active status once each year or at such shorter intervals as the supreme court may provide. The supreme court may reinstate an attorney suspended due to disability upon a showing by clear and convincing evidence that the attorney's disability has been removed and the attorney is fully qualified to resume the practice of law. Upon the attorney's filing of an application for reinstatement, the supreme court may take or direct any action deemed necessary or proper to determine whether the suspended attorney's disability has been removed, including an examination of the attorney by qualified medical experts as the supreme court may designate. In its discretion the supreme court may direct that the attorney pay the expenses of the examination.

34.17(8) The filing of an application for reinstatement to active status by an attorney suspended due to disability constitutes a waiver of the doctor-patient privilege regarding any treatment of the attorney during the period of the disability. The attorney must also set forth in the application for reinstatement the name of every psychiatrist, psychologist, physician, hospital, or any other institution by whom or in which the attorney has been examined or treated since the disability suspension. The attorney must also furnish to the supreme court written consent that the psychiatrist, psychologist, physician, hospital, or other institution may divulge any information and records the supreme court or any court-appointed medical experts request.

34.17(9) When an attorney has been suspended due to disability and thereafter the attorney is judicially held to be competent or cured, the supreme court may dispense with further evidence regarding removal of the disability and may order reinstatement to active status upon such terms as the court deems reasonable.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.17 formerly appeared as Iowa Court Rule 35.17. It is amended to provide for recovery of trustee fees and costs the Client Security Commission pays through the annual assessment and reporting process and also as a condition of reinstatement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.18 Death, suspension, or disbarment of practicing attorney.

34.18(1) Upon a sworn application on behalf of a local bar association or the disciplinary board showing that a practicing attorney has died or has been suspended or disbarred from the practice of law and that a reasonable necessity exists, the chief judge in the judicial district in which the attorney practiced may appoint an attorney to serve as trustee to inventory the attorney's files, sequester client funds, and take any other appropriate action to protect the interests of the attorney's clients and other affected persons. The appointment is subject to supreme court confirmation. The appointed attorney serves as a special member of the disciplinary board and as a commissioner of the supreme court for the purposes of the appointment.

34.18(2) While acting as trustee, the trustee must not serve as an attorney for the clients of the disabled attorney or other affected persons. The trustee also must not examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. If the trustee acquires such information inadvertently, the trustee must, as to such matters, protect the privacy interests of the disabled attorney's clients by prompt recusal or refusal of employment.

34.18(3) The trustee may seek reasonable fees and reimbursement of costs of the trust from the deceased attorney's estate or the attorney whose license to practice law has been suspended or revoked. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, must determine the merits of the claim and the amount of any payment from the fund.

34.18(4) When all pending representation of clients is completed or the purposes of the trust are accomplished, the trustee may apply to the appointing chief judge for an order terminating the trust.

34.18(5) Trustee fees and expenses paid by the Client Security Commission must be assessed to the deceased, suspended, or disbarred attorney by the Client Security Commission and are due

upon assessment. Trustee fees and expenses assessed under this rule must be paid as a condition of reinstatement and may be collected by the Client Security Commission as part of the annual statement and assessment required by rule 39.8.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.18 formerly appeared as Iowa Court Rule 35.18. It is amended to provide for recovery of trustee fees and costs the Client Security Commission pays through the annual assessment and reporting process and also as a condition of reinstatement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.19 Reciprocal discipline.

34.19(1) Any attorney admitted to practice in this state, upon being subjected to professional disciplinary action in another jurisdiction or in any federal court, must promptly advise the disciplinary board in writing of such action. Upon being informed that an attorney admitted to practice in this state has been the subject of professional discipline in another jurisdiction or any federal court, the disciplinary board must obtain a certified copy of such disciplinary order and file it in the office of the supreme court clerk.

34.19(2) Upon receipt of a certified copy of an order disclosing that an attorney admitted to practice in this state has been disciplined in another jurisdiction or any federal court, the supreme court will promptly give notice of the discipline by restricted certified mail or personal service directed to the attorney containing: a copy of the disciplinary order from the other jurisdiction or federal court and an order directing that the disciplined attorney file in the supreme court, within 30 days after receipt of the notice, any objection that imposition of identical discipline in this state would be too severe or otherwise unwarranted, giving specific reasons. A like notice will be sent, by ordinary mail, to the disciplinary board, which has the right to object on the ground that the imposition of identical discipline in this state would be too lenient or otherwise unwarranted. If either party objects to imposition of identical discipline, the matter will be set for hearing before three or more justices of the supreme court, and the parties will be notified by restricted certified mail at least 10 days prior to the date set. At the hearing, a certified copy of the testimony, transcripts, exhibits, affidavits, and other matters introduced into evidence in the other jurisdiction or federal court must be admitted into evidence as well as any findings of fact, conclusions of law, decisions, and orders. Any such findings of fact are conclusive and not subject to readjudication. The supreme court may enter such findings, conclusions, and orders that it deems appropriate.

34.19(3) If neither party objects within 30 days from service of the notice, the supreme court may impose the identical discipline, unless the court finds that on the face of the record upon which the discipline is based it clearly appears that any of the following are true:

- a. The disciplinary procedure was so lacking in notice and opportunity to be heard as to constitute a deprivation of due process.
- b. There was such infirmity of proof establishing misconduct as to give rise to the clear conviction that the supreme court could not, conscientiously, accept as final the conclusion on that subject.
- c. The misconduct established warrants substantially different discipline in this state.

34.19(4) If the supreme court determines that any such factors exist, it may enter an appropriate order. Rule 34.25 applies to any subsequent reinstatement or reduction or stay of discipline.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.19 formerly appeared as Iowa Court Rule 35.19. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.20 Suspension of attorney's license for failure to comply with a child support order. An attorney who fails to comply with a child support order may be subject to a suspension of the attorney's license to practice law in Iowa.

34.20(1) Procedure. Any certificate of noncompliance with a child support order that involves an attorney must be filed by the Child Support Recovery Unit (CSRU) with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director of the office of professional regulation of the supreme court must issue a notice to the attorney. The following rules apply and must be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the CSRU to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the county in which the underlying child support order is filed.

c. The attorney must file the application for hearing with the district court clerk within 30 days of the date of issuance of the notice and must provide copies of the application to the CSRU and the office of professional regulation by regular mail.

d. Filing of the application automatically stays the supreme court's action on the certificate of noncompliance.

e. The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

34.20(2) District court hearing.

a. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, the CSRU, and the office of professional regulation.

b. Prior to the hearing, the district court must receive a certified copy of the CSRU's written decision and certificate of noncompliance from the CSRU and a certified copy of the notice from the office of professional regulation.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.

d. The district court's scope of review is limited to determining if there has been a mistake of fact relating to the attorney's child support delinquency. The court will not consider visitation or custody issues and will not modify the child support order.

e. If the district court concludes the CSRU erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of certificate of noncompliance, the district court will order the CSRU to file a withdrawal of certificate of noncompliance with the office of professional regulation.

34.20(3) Noncompliance certificate withdrawn. If the CSRU files a withdrawal of certificate of noncompliance, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules.

34.20(4) Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the director of the office of professional regulation is authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify attorneys subject to enforcement under Iowa Code chapter 252J or 598.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.20 formerly appeared as Iowa Court Rule 35.20. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.21 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the College Student Aid Commission. An attorney who defaults on an obligation owed to or collected by the College Student Aid Commission (aid commission) may be subject to suspension of the attorney's license to practice law in Iowa.

34.21(1) Procedure. The aid commission must file any certificate of noncompliance that involves an attorney with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director of the office of professional regulation must issue a notice to the attorney. The following rules apply and must be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the aid commission to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney must contact the aid commission to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

c. The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the attorney's county of residence.

d. The attorney must file the application for hearing with the district court clerk within 30 days of the date of issuance of the notice must provide copies of the application to the aid commission and the office of professional regulation by regular mail.

e. Filing of the application automatically stays the supreme court's action on the certificate of noncompliance.

f. The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

34.21(2) District court hearing.

a. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, the aid commission, and the office of professional regulation.

b. Prior to the hearing, the district court must receive a certified copy of the aid commission's written decision, a certificate of noncompliance from the commission, and a certified copy of the notice from the office of professional regulation.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.

d. The district court's scope of review is limited to determining if there has been a mistake of fact relating to the attorney's delinquency.

e. If the district court concludes the aid commission erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court will order the aid commission to file a withdrawal of the certificate of noncompliance with the office of professional regulation.

34.21(3) *Noncompliance certificate withdrawn.* If the aid commission files a withdrawal of certificate of noncompliance, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.21 formerly appeared as Iowa Court Rule 35.21. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.22 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Centralized Collection Unit of the Department of Revenue. An attorney who defaults on an obligation owed to or collected by the Centralized Collection Unit of the Department of Revenue (CCU) may be subject to suspension of the attorney's license to practice law in Iowa.

34.22(1) *Procedure.* The CCU must file any certificate of noncompliance that involves an attorney with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director of the office of professional regulation must issue a notice to the attorney. The following rules apply and must be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the CCU to file a withdrawal of the certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney must contact the CCU to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

c. The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the county where the majority of the liability was incurred.

d. The attorney must file the application for hearing with the clerk of the district court within 30 days of the date of issuance of the notice and must provide copies of the application to the CCU and the office of professional regulation by regular mail.

e. Filing of the application automatically stays the supreme court's action on the certificate of noncompliance.

f. The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

34.22(2) *District court hearing.*

a. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, the CCU, and the office of professional regulation.

b. Prior to the hearing, the district court must receive a certified copy of the CCU's written decision and certificate of noncompliance from the CCU and a certified copy of the notice from the office of professional regulation.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.

d. The district court's scope of review is limited to demonstration of the amount of the liability owed or the identity of the person.

e. If the district court concludes the CCU erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court will order the CCU to file a withdrawal of the certificate of noncompliance with the office of professional regulation.

34.22(3) *Noncompliance certificate withdrawn.* If a withdrawal of the certificate of noncompliance is filed, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules.

34.22(4) *Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the director of the office of professional regulation is authorized to share information with the CCU for the sole purpose of allowing the CCU to identify attorneys subject to enforcement under Iowa Code chapter 272D.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.22 formerly appeared as Iowa Court Rule 35.22. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.23 Suspension generally.

34.23(1) In the event the supreme court suspends an attorney's license to practice law, the suspension continues for the minimum time specified in such order and until the supreme court approves the attorney's written application for reinstatement. In the order of suspension or by order at any time before reinstatement, the supreme court may require the suspended attorney to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

34.23(2) An attorney whose license has been suspended for a period not exceeding 60 days is not required to file an application for reinstatement, and the court will order reinstatement of the attorney's license on the day after the suspension period expires, subject to the following exceptions:

a. The disciplinary board may file and serve within the suspension period an objection to the automatic reinstatement of the attorney. The filing of an objection stays the automatic reinstatement until the supreme court orders otherwise. If the disciplinary board files an objection, the supreme court will set the matter for hearing and the supreme court clerk must enter written notice in conformance with rule 34.25, except that the court may waive the requirement of a 60-day waiting period prior to the hearing date.

b. Automatic reinstatement will not be ordered until all costs assessed under rule 36.24 are paid and the reporting and fee payment requirements of rules 39.14(2) and 41.10(2) are completed.

34.23(3) Any attorney suspended must refrain during such suspension from all facets of ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; acting as a fiduciary; and when possible, remove all advertising of the attorney's services or holding out to the public that he or she is a licensed attorney. Such suspended attorney may, however, act as a fiduciary for an estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

34.23(4) Nothing in this rule precludes an attorney, law firm, or professional association from employing a suspended attorney to perform only such services as laypersons may ethically perform under all of the following conditions:

a. Notice of employment, together with a full job description, must be provided by the employer and employee to the disciplinary board before employment commences.

b. The employer and employee must verify and submit informational reports quarterly to the disciplinary board certifying that no aspect of the employee's work has involved the unauthorized practice of law.

c. A suspended attorney must not have direct or personal association with any client and must not disburse or otherwise handle funds or property of a client.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.23 formerly appeared as Iowa Court Rule 35.13. Rule 34.23(2) is amended from former rule 35.13(2) to make clear that satisfaction of reinstatement requirements with the Commission on Continuing Legal Education and the Client Security Commission is a condition precedent to automatic reinstatement, as it is for reinstatement upon application. The rule also is amended to require curtailment of advertising, to the extent possible, during the period of suspension. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.24 Notification of clients and counsel.

34.24(1) In every case in which a respondent is ordered to be disbarred or suspended, the respondent must do all of the following:

a. Within 15 days notify in writing the respondent's clients in all pending matters of the need to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney.

b. Within 15 days deliver to all clients represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place for obtaining the papers and other property, calling attention to any urgency for obtaining the papers or other property.

c. Within 30 days refund any part of any fees paid in advance that have not been earned.

d. Within 15 days notify opposing counsel in pending litigation or, in the absence of such counsel, the adverse parties of the respondent's disbarment or suspension and consequent disqualification to act as an attorney after the effective date of such discipline or transfer to disability inactive status.

e. Within 15 days file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.

f. Keep and maintain records of the steps taken to accomplish the foregoing.

g. Within 30 days file with the disciplinary board copies of the notices sent pursuant to the requirements of this rule and proof of complete performance of the requirements. This is a condition for application for readmission to practice.

34.24(2) The times set forth in rules 34.24(1)(c) and 34.24(1)(g) are reduced to 15 days for respondents who are exempted from filing an application for reinstatement under rule 34.23.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.24 formerly appeared as Iowa Court Rule 35.23. [Court Order January 26, 2016, effective April 1, 2016]

REINSTATEMENT

Rule 34.25 Procedure on application for reinstatement. Any person whose certificate to practice law in this state has been suspended may apply for reinstatement subject to the following rules:

34.25(1) Application.

a. A proceeding for reinstatement to the practice of law in Iowa must be commenced by written application to the supreme court filed with the supreme court clerk not more than 60 days prior to expiration of the suspension period.

b. The application must state the date of the applicant's original admission, the date and duration of suspension, and that the applicant has complied in all respects with any orders or judgments of the supreme court relating to the suspension.

c. The application must be verified by the oath of the applicant as to the truth of the statements made in the application.

d. The applicant must also submit to the supreme court satisfactory proof that the applicant, at the time of the application, is of good moral character and in all respects worthy of the right to practice law. The application must be accompanied by the recommendation of at least three reputable attorneys currently practicing law in the judicial district in which the applicant then lives and has lived at least one year prior to filing the application. If the applicant does not reside in the district in which the applicant lived at the time of the suspension, the applicant must also file a recommendation from three reputable attorneys currently practicing law in the district where the applicant resided at the time of suspension. The required recommendations may not be from judges or magistrates.

e. The applicant must also submit satisfactory proof that the applicant, at the time of the application, has filed all reports, paid all fees, and completed all continuing legal education requirements of chapters 39, 41, and 42 of the Iowa Court Rules.

f. The applicant must submit satisfactory proof that the Client Security Trust Fund is repaid in full for all client security conduct or that the Client Security Commission has approved a repayment plan.

34.25(2) Procedure. Upon filing of the application and recommendations with the supreme court clerk, the clerk must give written notice containing the date of the suspension, the date of filing the application, and the date of the hearing set by the supreme court, which will be at least 60 days after the filing of such application for reinstatement, to the persons listed below:

a. The attorney general.

b. The county attorney where the applicant resides.

c. The county attorney where the applicant resided at the time of suspension.

d. The chair of the Iowa Board of Law Examiners.

e. The assistant director for attorney discipline of the office of professional regulation.

f. Each judge of the district in which the applicant resided at the time of suspension.

- g. The president of a local bar association where the applicant resides.
- h. The president of a local bar association where the applicant resided when the certificate was suspended.
- i. The president of The Iowa State Bar Association.

34.25(3) *Written statements.* After receipt of the notice and before the date fixed for hearing, the persons provided notice in rule 34.25(2) may submit to the supreme court clerk written statements of fact and comments regarding the current fitness of the applicant to practice law.

34.25(4) *Notices of witnesses and exhibits.* At least 14 days prior to the scheduled hearing date, the applicant and the disciplinary board must provide notice to the court and the opposing party of the names and expected testimony of any witnesses they intend to produce and must file and serve copies of any exhibits they intend to introduce at the hearing. The opposing party must provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. The supreme court may waive these deadlines only upon good cause shown.

34.25(5) *Hearing.* The reinstatement hearing will be held at the time and place the supreme court designates. The applicant bears the burden of demonstrating that the applicant is of good moral character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of suspension. The hearing will be public unless the supreme court orders otherwise upon motion of a party. The hearing will be informal and the strict rules of evidence will not apply. The supreme court may impose reasonable time limits on the length of the hearing.

34.25(6) *Decision.* The supreme court will render its decision as soon as practicable after the hearing. The supreme court may require the applicant to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

34.25(7) *Reinstatement after revocation.* In the event the supreme court revokes an attorney's license to practice law, the attorney is not eligible to apply for reinstatement until at least five years after the date of revocation. For purposes of rule 34.25, "revoked attorney" includes an attorney whose license to practice law has been revoked or an attorney who has been disbarred. Similarly, "revocation" includes "disbarment" and "revoked" includes "disbarred."

34.25(8) *Pre-filing requirements.* Prior to filing the application, the revoked attorney must:

- a. File the attorney's character and fitness application with the National Conference of Bar Examiners (NCBE) and pay the NCBE's application fee.
- b. Pay an administrative fee of \$525 to the Iowa Board of Law Examiners.

34.25(9) *Filing and contents of application.* A revoked attorney's application for reinstatement must:

- a. Be filed with the supreme court clerk and be served on the Iowa Board of Law Examiners.
- b. State the date of the applicant's original admission, the date of revocation, and that the applicant has complied in all respects with rule 34.24 and any supreme court orders or judgments relating to the revocation.
- c. Include satisfactory proof that the applicant is of good moral character and is in all respects worthy of readmission to the bar. The applicant must provide a detailed affidavit describing the applicant's personal, educational, and work history since the date of revocation. The application must be accompanied by the recommendation of at least three reputable attorneys currently practicing law in the judicial district in which the applicant then lives and has lived at least one year prior to filing the application. If the applicant does not reside in the district in which the applicant lived at the time of the revocation, the applicant must also file a recommendation from three reputable attorneys currently practicing law in the district where the applicant resided at the time of revocation. The required recommendations may not be from judges or magistrates.
- d. Include satisfactory proof that the applicant, at the time of the application, has paid all fees required by the provisions of chapters 39, 41, and 42 of the Iowa Court Rules.
- e. Include satisfactory proof that the Client Security Trust Fund has been repaid in full, or that the Client Security Commission has approved a repayment plan, for all client security claim payments paid from the Client Security Trust Fund under rule 39.9 based on the applicant's conduct.
- f. Include satisfactory proof that the applicant, at the time of the application, has paid all costs assessed against the applicant under rule 36.24.

34.25(10) *Iowa Board of Law Examiners' report.* After the application for reinstatement is filed with the supreme court clerk, the disciplinary board will file a report and recommendation with the supreme court regarding the applicant's character and fitness.

34.25(11) *Supreme court actions on application.* Upon review of the application for reinstatement from a revoked attorney, the supreme court may summarily deny the application, request further information, or set a hearing date and direct the supreme court clerk to give the notice provided under rule 34.25(12). The court may appoint a special master or a hearing panel to conduct the hearing. The hearing date must in no case be less than 60 days after the filing of the application for reinstatement. Any order denying reinstatement may state whether the attorney is allowed to file a future application and, if so, the minimum amount of time before the application may be filed.

34.25(12) *Procedure.* Upon direction of the supreme court, the supreme court clerk must give written notice of the revoked attorney's application for reinstatement containing the date of the revocation, the date of filing the application, and the date of the hearing set by the court, if any, to the following persons:

- a. The attorney general.
- b. The county attorney where the applicant resides.
- c. The county attorney where the applicant resided at the time of revocation.
- d. The chair of the Iowa Board of Law Examiners.
- e. The assistant director for attorney discipline of the office of professional regulation.
- f. Each judge of the district in which the applicant resided at the time of revocation.
- g. The president of a local bar association where the applicant resides.
- h. The president of a local bar association where the applicant resided at the time of revocation.
- i. The president of The Iowa State Bar Association.

34.25(13) *Written statements.* Such persons, after receipt of the notice and before the date fixed for hearing, may submit to the supreme court clerk written statements of fact and comments regarding the applicant's current fitness to practice law.

34.25(14) *Notices of witnesses and exhibits.* At least 14 days prior to the scheduled hearing date, the applicant and the disciplinary board must provide the supreme court or the special master or hearing panel, if applicable, and the opposing party notice of the names and expected testimony of any witnesses they intend to produce, and they must file and serve copies of any exhibits they intend to introduce at the hearing. The parties may provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. The court, or the special master or hearing panel, if applicable, may waive these deadlines only upon good cause shown.

34.25(15) *Hearing.* The reinstatement hearing will be held at the time and place the supreme court designates. The applicant bears the burden of demonstrating that the applicant is of good moral character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of revocation. The hearing will be public unless the supreme court orders otherwise upon motion of a party. The hearing will be informal, and strict rules of evidence will not apply. The supreme court may impose reasonable time limits on the length of the hearing. The hearing must be recorded.

34.25(16) *Decision.*

a. The supreme court's decision will be determined by majority vote of those justices participating in the proceeding. Any special master or hearing panel appointed to conduct a hearing must file a report containing findings of fact with the supreme court clerk within 30 days after the hearing. The court's review of the record made before the special master or hearing panel will be de novo. An attorney's readmission to practice in another jurisdiction following revocation in Iowa is not binding on the decision of the supreme court on any application for reinstatement to practice in Iowa. The decision rests in the sole discretion of the supreme court.

b. The supreme court in its discretion may place conditions on reinstatement, including, but not limited to, passing the Iowa Bar Examination. If the supreme court does not require the applicant to pass the bar examination, it will impose a requirement that the applicant must report up to 100 hours of continuing legal education. If the applicant refuses or fails to perform any of the conditions, the court may enter an order summarily denying the application or revoking the attorney's license, if admitted, without further hearing. The applicant must post a scaled score of at least 80 on the Multistate Professional Responsibility Exam (MPRE) as a condition of reinstatement. The MPRE score may be from a test taken no longer than three years prior to the date of filing of the application for reinstatement. An applicant may take the MPRE after the court's reinstatement decision, but the attorney will not be reinstated until the required score is filed.

34.25(17) *Applicability of rules to attorneys permanently enjoined from practicing law in Iowa.* Rules 34.25(7) through 34.25(16) also apply to attorneys not licensed in Iowa whom the Iowa Supreme Court has enjoined from practicing law in Iowa on a permanent basis. Such attorneys who

seek to have the injunction lifted must follow the procedures set forth for revoked attorneys in those rules, and their applications will be processed in the same manner.

34.25(18) *Denial of reinstatement for failure to comply with a child support order.* An attorney who fails to comply with a child support order may be denied reinstatement of the attorney's license to practice law in Iowa.

a. Procedure. The Child Support Recovery Unit (CSRU) may file with the supreme court clerk any certificate of noncompliance that involves an attorney. Rule 34.20(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.20(2) governs all matters pertaining to the hearing.

c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the director of the office of professional regulation are authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify licensees subject to enforcement under Iowa Code chapter 252J or 598.

34.25(19) *Denial of reinstatement for default on student loan obligation.* An attorney who defaults on an obligation owed to or collected by the aid commission may be denied reinstatement of the attorney's license to practice law in Iowa.

a. Procedure. The College Student Aid Commission may file with the supreme court clerk any certificate of noncompliance that involves an attorney. Rule 34.21(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.21(2) governs all matters pertaining to the hearing.

c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

34.25(20) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Centralized Collection Unit of the Department of Revenue.* An attorney who defaults on an obligation owed to or collected by the Centralized Collection Unit of the Department of Revenue (CCU) may be denied reinstatement of the attorney's license to practice law in Iowa.

a. Procedure. The CCU may file with the supreme court clerk any certificate of noncompliance that involves an attorney. Rule 34.22(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.22(2) governs all matters pertaining to the hearing.

c. Noncompliance certificate withdrawn. If a withdrawal of a certificate of noncompliance is filed, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.25 formerly appeared as Iowa Court Rule 35.14. [Court Order January 26, 2016, effective April 1, 2016]